

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

*Plaintiff,*

vs.

2019 FORD F-350 PLATINUM VIN:  
1FT8W3BT4KED32684

*Defendant-in-rem.*

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THERESA ATENCIO,

*Claimant*

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23-CV-140-GBW-SCY

**ANSWER AND AFFIRMATIVE DEFENSES OF CLAIMANT THERESA ATENCIO**

Pursuant to Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Claimant Theresa Atencio, by and through Joel R. Meyers, of the Law Office of Joel R. Meyers LLC, hereby sets forth the following Answer and Affirmative Defenses to the Complaint for Forfeiture in Rem.

**ANSWER**

1. Paragraph 1 states conclusions of law to which no response is required. To the extent that Paragraph 1 may be read to make allegations of fact concerning Claimant or the defendant property, those allegations are denied.

2. Admitted.

3. Claimant lacks knowledge as to when and by whom the defendant property was seized and thus neither admits nor denies the allegation in Paragraph 3.

4. Claimant lacks knowledge as to the present whereabouts of the defendant property and thus neither admits nor denies the allegation in Paragraph 4.

5. Paragraph 5 states conclusions of law to which no response is required. To the extent that Paragraph 5 may be read to make allegations of fact concerning Claimant or the defendant property, those allegations are denied.

6. Paragraph 6 states conclusions of law to which no response is required. To the extent that Paragraph 6 may be read to make allegations of fact concerning Claimant or the defendant property, those allegations are denied.

7. Claimant lacks knowledge as to the allegations in Paragraph 7 and thus neither admits nor denies the allegations in Paragraph 7.

8. Claimant lacks knowledge as to the allegations in Paragraph 8 and thus neither admits nor denies the allegations in Paragraph 8.

9. Claimant lacks knowledge as to the allegations in Paragraph 9 and thus neither admits nor denies the allegations in Paragraph 9.

10. Claimant lacks knowledge as to the allegations in Paragraph 10 and thus neither admits nor denies the allegations in Paragraph 10.

11. Claimant lacks knowledge as to the allegations in Paragraph 11 and thus neither admits nor denies the allegations in Paragraph 11.

12. Claimant neither admits nor denies.

13. Admitted.

14. Denied.

15. Denied.

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff's Complaint fails to state claims upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiff's Complaint does not comply with the requirement of Supplemental Rule G to "state sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof at trial." Apart from a reference to uncorroborated hearsay statements and conclusory allegations, the Complaint contains no allegations concerning the facts allegedly supporting forfeiture of the defendant property.

**THIRD AFFIRMATIVE DEFENSE**

Claimant is an "innocent owner" of the defendant property as that term is defined under 18 U.S.C. § 983(d).

**FOURTH AFFIRMATIVE DEFENSE**

Forfeiture of the defendant property is barred by the prohibition against excessive fines as set forth in the Eighth Amendment to the United States Constitution.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), Claimant demands a jury.

WHEREFORE, Claimant hereby demands that the Court deny Plaintiff's claim for forfeiture of the defendant property; order the defendant property be returned to Claimant; order that Plaintiff pay Claimant's attorney's fees and costs pursuant to 28 U.S.C. § 2465(b)(1)(A); and enter such additional relief as the Court deems just and proper.

Respectfully Submitted,

/s/ Joel R. Meyers

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 14<sup>th</sup> day of October 2023, I filed the foregoing electronically through the CM/ECF system, which caused Counsel for the Plaintiff to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Taylor F. Hartstein  
Assistant United States Attorney  
United States Attorney's Office  
201 Third Street NW, Suite 900  
Albuquerque, NM 87103

/s/ Joel R. Meyers